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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 JOHN HERNANDEZ, *et al.*,

No. C 11-2397 SI

9 Plaintiffs,

**ORDER DIRECTING FURTHER
BRIEFING RE: STATE COURT
WRONGFUL DEATH LAWSUIT**

10 v.

11 KEVIN BROIN, *et al.*,

12 Defendants.
13 _____/

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15 Defendants' motion to dismiss the amended complaint is scheduled for a hearing on September
16 22, 2011. The parties' briefing on that motion discusses plaintiffs' state court wrongful death lawsuit
17 and the several appeals in that case. *Hernandez et al. v. Whitman Corporation et al.*, CVG0083280
18 (Mendocino County Sup. Ct.). Defendant has submitted the docket sheet for the first appeal in that case.
19 Andrade Decl. Ex. M. However, neither party has submitted any documents for the second appeal in
20 that case, namely the appeal of the Superior Court's second summary judgment decision in favor of
21 defendants on the wrongful death claim (Appeal. No. A108245). Based upon the Court's research, it
22 appears that after remand of the first appeal, the trial court entered judgment on December 4, 2006, the
23 notice of appeal was "lodged/received" on March 15, 2007, and the remittitur was issued on August 22,
24 2008. See <http://appellatecases.courtinfo.ca.gov/search/case/disposition> (searching A108245).

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26 In advance of the September 22, 2011 hearing, the Court directs the parties to determine if the
27 notice of appeal in the second appeal was filed on March 15, 2007. As soon as is practicable, the parties
28 are directed to supplement the record with such court documents and dockets as are necessary to

1 establish the timing and disposition of the second state court appeal.

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3 **IT IS SO ORDERED.**

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5 Dated: September 15, 2011



SUSAN ILLSTON
United States District Judge